

**WAUKESHA COUNTY BOARD OF ADJUSTMENT
SUMMARY OF MEETING**

The following is a Summary of the Board of Adjustment Meeting held on Tuesday, November 25, 2008, at 6:30 p.m. in Room AC 255/259 of the Waukesha County Administration Center, 515 W. Moreland Blvd., Waukesha County, Wisconsin, 53188.

BOARD MEMBERS PRESENT: James Ward, Chairman
Ray Dwyer
Tom Day

BOARD MEMBERS ABSENT: Robert Bartholomew
Walter Schmidt

SECRETARY TO THE BOARD: Richard Mace, substituting for Sheri Mount

OTHERS PRESENT: Jason Johnson, BA08:063, owner

The following is a record of the motions and decisions made by the Board of Adjustment. Detailed minutes of these proceedings are not produced, however, a taped record of the meeting is kept on file in the office of the Waukesha County Department of Parks and Land Use and a taped copy is available, at cost, upon request.

NEW BUSINESS:
None.

OTHER ITEMS REQUIRING BOARD ACTION:

BA08:063 JASON JOHNSON:

Mr. Day

Moved to reconsider the decision made by the Board of Adjustment on October 8, 2008. The motion was seconded by Mr. Dwyer and carried unanimously. The Board asked Mr. Johnson questions about the building to confirm that it had been torn down to the foundation because of building code issues and whether he had read the staff's memo with the recommended five (5) conditions dated November 25, 2008. Mr. Johnson indicated it was torn down and he understood and after some questions, agreed with the conditions.

The Planning and Zoning Division staff recommend the Board to reconsider their action of October 8, 2008, and approve the reconstruction of the residence on the existing foundation and grant the variances as previously recommended on October 8, 2008 and as shown on the new plan for the house dated November 14, 2008, subject to the following conditions:

1. The new residence must not extend beyond the existing foundation, with overhangs not to exceed 2 ft. in width.
2. The new residence must meet all height requirements of the Ordinance.

3. No new decks or patios are permitted.
4. Prior to the issuance of a Zoning Permit, the final construction plans for the new residence must be submitted to Planning and Zoning Staff for review and approval.
5. Prior to re-commencing construction, the building inspector must certify that the foundation is structurally sound and able to support the new structure.

Mr. Dwyer moved, seconded by Mr. Day and carried unanimously to approve the revised plan as recommended by staff and for the reasons, as stated in the previous decision of October 08, 2008, are as follows:

It has been demonstrated, as required for a variance, that denial of the requested variances would result in an unnecessary hardship. A hardship has been defined by the Wisconsin Supreme Court as a situation where compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. The new structure will be built within the footprint of the existing structure, which is reasonable as there is not a more conforming location on the property in which to rebuild. Without the floor area ratio variance, the maximum permitted floor area ratio of 19.5% would permit a total floor area of only 451 sq. ft., which is smaller than the existing residence and not in conformance with the district minimum floor area requirements. Further, the proposed second floor addition will not decrease the open space on the property and the addition of the second floor of the residence will result in a modestly-sized residence, in keeping with other development in the area and not be contrary to the public interest. Therefore, the approval of this request, with the recommended conditions, is in conformance with the purpose and intent of the Ordinance.

ADJOURNMENT:

Mr. Dwyer *Moved to adjourn this meeting at 6:40pm.*

The motion was seconded by Mr. Day and carried.

Respectfully submitted,

Richard Mace
Secretary, Board of Adjustment